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H.495

Introduced by Committee on Agriculture and Forestry

Date:

Subject: Agriculture; miscellaneous subjects

Statement of purpose of bill as introduced: This bill proposes to amend multiple provisions of law administered by the Agency of Agriculture, Food and Markets. The bill would amend provisions related to administrative penalties issued by the Agency. The bill would provide that rights or interests in real property acquired by the Secretary of Agriculture, Food and Markets through transactions funded in whole or in part by the Vermont Housing and Conservation Board are deemed as accepted by the Governor. The bill also would provide that an applicant for licensure or relicensure of a commercial slaughter facility has the option of submitting a good commercial practices plan for poultry instead of a livestock handling plan. In addition, the bill provides that a person who applies for a license to operate a weighing or measuring device after January 1 of each year shall be assessed a late fee according to the Agency's general authority for assessing late fees.

An act relating to miscellaneous agriculture subjects

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 6 V.S.A. § 13 is amended to read:

3 * * * Administrative Penalty Process * * *

4 § 13. ASSURANCES OF DISCONTINUANCE

5 (a) As an alternative to administrative or judicial proceedings, the ~~secretary~~
6 Secretary may accept an assurance of discontinuance of any violation. An
7 assurance of discontinuance may include, ~~but need not be limited to:~~

8 (1) specific actions to be taken;

9 (2) abatement or mitigation schedules;

10 (3) payment of a civil or administrative penalty and the costs of
11 investigation; or

12 (4) payment of an amount to be held in escrow pending the outcome of
13 an action, or as restitution to aggrieved persons.

14 (b) An assurance of discontinuance shall be in writing, and may by its
15 terms be filed with the ~~superior court~~ Superior Court having jurisdiction over
16 the subject matter and become an order of the court. Evidence of a violation of
17 an assurance of discontinuance shall be prima facie proof of the violation.

18 (c) Any violation of an assurance of discontinuance shall constitute a
19 separate and distinct offense of the underlying regulatory program and shall be
20 subject to the applicable general penalties for violations of the law under that
21 program, in addition to any other applicable penalties.

1 (d) Costs of investigations collected under subsection (a) of this section
2 shall be credited to a special fund and shall be available to the ~~agency~~ Agency
3 to offset these costs.

4 Sec. 2. 6 V.S.A. § 16 is amended to read:

5 § 16. NOTICE AND FAIR HEARING REQUIREMENTS

6 (a) The ~~secretary~~ Secretary shall use the following procedures in assessing
7 the penalty under section 15 of this title: the alleged violator shall be given an
8 opportunity for hearing after reasonable notice and the notice shall be served
9 by personal service or by certified mail, ~~return receipt requested~~ sent to the last
10 address of record on file with the Agency. If the alleged violator is not an
11 applicant for or holder of a license, permit, registration, or certification issued
12 by the Agency, the notice shall be served by personal service or by certified
13 mail, return receipt requested. The notice shall include:

14 (1) a A statement of the legal authority and jurisdiction under which the
15 hearing is to be held;

16 (2) a A statement of the matter at issue, including reference to the
17 particular statute or administrative rule allegedly violated and a factual
18 description of the alleged violation;

1 (3) ~~the~~ The amount of the proposed administrative penalty; and required
2 corrective action, abatement, or mitigation.

3 (4) ~~a~~ A warning that the decision shall become final and the penalty
4 imposed if no hearing is requested within 15 days of ~~receipt~~ service of the
5 notice. The notice shall specify the requirements ~~which~~ that must be met in
6 order to avoid being deemed to have waived the right to a hearing, or the
7 manner of payment if the person elects to pay the penalty and waive a hearing.

8 (b) Any person who receives notification pursuant to this section shall be
9 deemed to have waived the right to a hearing unless, within 15 days of the
10 receipt of the notice, the person requests a hearing in writing. If the person
11 waives the right to a hearing, the ~~secretary~~ Secretary shall issue a final order
12 finding the person in default and imposing the penalty and any required
13 corrective action, abatement, or mitigation. A copy of the final default order
14 shall be ~~sent to~~ served upon the violator by certified mail, return receipt
15 requested or by personal service.

16 (c) When an alleged violator requests a hearing in a timely fashion, the
17 ~~secretary~~ Secretary shall hold the hearing pursuant to 3 V.S.A. chapter 25.

1 Sec. 3. 6 V.S.A. § 17 is amended to read:

2 § 17. COLLECTIONS

3 (a) The ~~secretary~~ Secretary may collect an unpaid administrative or civil
4 penalty by filing a civil collection action in any ~~district or superior court,~~
5 Superior Court or through any other means available to ~~state~~ State agencies.

6 (b) The ~~secretary~~ Secretary may, subject to 3 V.S.A. chapter 25, suspend
7 any license, certificate, registration, or permit issued pursuant to his or her
8 authority for failure to pay a penalty under this chapter more than ~~60~~ 45 days
9 after the penalty was ~~issued~~ imposed by order and served.

10 * * * Acceptance of Gifts of Real Property * * *

11 Sec. 4. 6 V.S.A. § 14 is amended to read:

12 § 14. ACCEPTANCE OF GIFTS OF REAL PROPERTY

13 The ~~secretary~~ Secretary, with the approval of the ~~governor~~ Governor, may
14 accept gifts of the rights and interests in real property in the manner provided
15 by 10 V.S.A. chapter 155. Rights or interests in real property acquired by the
16 Secretary through transactions funded in whole or in part by the Vermont
17 Housing and Conservation Board are deemed as accepted by the Governor.

18 * * * Meat Inspection * * *

19 Sec. 5. 6 V.S.A. § 3306(i) is amended to read:

20 (i) All applicants for licensure or relicensure as a commercial slaughter
21 facility shall submit a written humane livestock handling plan or a good

1 commercial practices plan for poultry for review and approval by the Secretary
2 of Agriculture, Food and Markets or designee. The Secretary may suspend,
3 revoke, or condition any commercial slaughter facility license, after notice and
4 opportunity for hearing, for a licensee's failure to adhere to the written plan.

5 * * * Weights and Measures * * *

6 Sec. 6. 9 V.S.A. § 2730(c) is amended to read:

7 (c) Any person wishing to obtain a license to operate a weighing or
8 measuring device shall annually apply to the Secretary, on forms provided by
9 the Secretary, on or before January 1. Each application shall be accompanied
10 by a fee as specified in this section. Except for new applicants, any applicant
11 who applies for a license after January 1 shall pay ~~an additional late fee equal~~
12 ~~to 10 percent of the specified fee~~ a late fee as provided for under 6 V.S.A.
13 § 1(a)(13).

14 * * * Working Lands * * *

15 Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

16 (b) Powers. The Vermont Working Lands Enterprise Board shall have the
17 authority:

18 * * *

19 (6) to establish an application process and eligibility criteria for
20 awarding grants, loans, incentives, and other investments in agricultural and
21 forestry enterprises and in food and forest systems, ~~provided that the Board~~

1 ~~shall prioritize assistance under this chapter to a person engaged in farming or~~
2 ~~forestry before providing assistance to a nonprofit organization or nonprofit~~
3 ~~corporation for a project that competes with a person engaged in farming or~~
4 ~~forestry;~~

5 * * *

6 * * * Effective Date * * *

7 Sec. 8. EFFECTIVE DATE

8 This act shall take effect on July 1, 2017.